BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA


Rulemaking 20-11-003

ASSIGNED COMMISSIONER’S SCOPING MEMO AND RULING

This Scoping Memo and Ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Commission’s Rules of Practice and Procedure.

1. Procedural Background

A prehearing conference (PHC) was held on December 15, 2020 to discuss the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. After considering the comments and reply comments to the Order Instituting Rulemaking (OIR) and discussion at the prehearing conference, I have determined the issues and initial schedule of the proceeding to be set forth in this scoping memo.

2. Issues

This rulemaking will address two primary issues: how to increase energy supply and decrease demand during the peak demand and net demand peak hours in the event that a heat storm similar to the August 2020 storm occurs in the summer of 2021. This rulemaking primarily focuses on those actions that the Commission can adopt by April 2021 and that the parties can implement before
or during the summer of 2021. All issues scoped into this proceeding shall also include considerations of (1) safety, (2) reliability, (3) load and supply impact, and (4) cost allocation.

1. Increase supply during peak and net peak demand hours
   a. Expedited procurement that could be online by summer 2021 and 2022, including the expansion of gas-fired generation assets
      i. How to implement to meet 2021 reliability needs
   b. Potential mechanism to update the resource adequacy (RA) requirements for summer 2021, in response to analyses from the California Energy Commission (CEC), California Independent System Operator (CAISO), and California Public Utilities Commission (CPUC) regarding load forecasts
   c. Potential support for the CAISO’s Capacity Procurement Mechanism (CPM) to procure additional capacity for summer 2021
   d. Stack analysis of resource availability and needs for summer 2021
   e. Expedited Load Serving Entity (LSE) Integrated Resources Planning (IRP) procurement
      i. LSE incentive mechanism to expedite the resource procurement process
      ii. How to ensure an incentive mechanism does not unreasonably increase costs to ratepayers
   f. Other opportunities to increase supply for summer 2021

2. Reduce demand during peak and net peak demand hours
   a. Flex Alert paid media and social media
      i. Program design and budget
      ii. Administration and oversight
      iii. Interface with other programs
b. Critical Peak Pricing (CPP)
   i. Number of allowed events per year
   ii. Marketing/customer education and program participation
   iii. Modifications to the event window
   iv. Non-IOU LSE consideration of offering CPP
   v. Other CPP issues

c. Out-of-market and outside of the RA framework emergency load reduction program (ELRP) that could be dispatched by CAISO/investor-owned utilities (IOUs)
   i. Program design elements
      1. Dispatch conditions & notification times
      2. Compensation level
      3. Load reduction measurement & testing
      4. Target customer segments
      5. Eligibility issues (e.g., dual participation)
      6. Other program requirements
   ii. Interactions with existing supply-side and load-modifying programs
   iii. Behind the meter (BTM) hybrid solar-plus-storage asset and stand-alone storage participation and discharge of available capacity in excess of onsite load (aka “exports”)
      - Potential interconnection, safety, and reliability considerations
   iv. Participation of BTM supply resources without firm capacity contracts
   v. Back-up generation (BUG) participation
   vi. Other considerations
d. Modifications to the reliability demand response (DR) programs, including Base Interruptible Program, Agriculture Pump Interruptible, Air Conditioner cycling
   i. Trigger before the warning stage
   ii. Expansion of the 2% cap
   iii. Mid- or partial-year enrollment
   iv. Trigger notification time
   v. Increase incentives or reduction in penalties
   vi. Other considerations

e. Modifications to Proxy Demand Resources such as the Capacity Bidding Program:
   i. Changes to Capacity Bidding Program attributes and measures to increase participation
   ii. Price bid caps into wholesale markets
   iii. Other considerations

f. Other Considerations for Demand Response Resources:
   i. Cost-Effectiveness considerations
   ii. Role of Smart Thermostats
   iii. Measures to minimize potential attrition and loss of capacity in existing utility DR programs
   iv. Measures to improve performance of utility and third-party demand response resources

g. Electric vehicle load
   i. Participation in IOU DR, Demand Response Auction Mechanism (DRAM), or non-IOU LSE DR programs

h. Other opportunities to reduce peak demand and net peak demand hours in summer 2021
3. Need for Evidentiary Hearing

This Commission preliminarily determined that hearings are not needed. In comments in response to the OIR and in discussion at the PHC, parties indicated that there may be material issues of fact that are in dispute.

Accordingly, I change the preliminary determination in the OIR and find that evidentiary hearing may be needed, provided a party moves to request an evidentiary hearing in accordance with the requirements outlined in the next paragraph.

Any party who believes that an evidentiary hearing is required should file and serve a motion requesting such a hearing in accordance with the schedule as indicated in this Scoping Ruling and Memo. Any such motion must identify and describe (i) the material issues of disputed fact, (ii) the evidence the party proposes to introduce at the requested hearing, and (iii) the schedule for conducting the hearing. The motion shall also state a justification for hearing and what the moving party would seek to demonstrate through hearing. It shall also contain anything else necessary for the Commission to make an informed decision on the motion. Any right that a party may otherwise have to an evidentiary hearing will be waived if the party does not submit a timely motion requesting an evidentiary hearing. The record shall be composed of all filed and served documents and shall include evidence received at a hearing if a motion for hearing is granted.

4. Schedule

The following schedule is adopted here and may be modified by the Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the Rulemaking.
The schedule for issues addressed in the December 11, 2020 e-mail ruling regarding capacity procurement will be finalized in an assigned commissioner ruling that will be issued shortly after the comments to the December 11, 2020 e-mail ruling are due on December 18, 2020.

The remainder of the schedule, including the schedule to address issues not addressed in the December 11, 2020 ruling, is as follows:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date due</th>
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<tbody>
<tr>
<td>Prehearing Conference</td>
<td>December 15, 2020</td>
</tr>
<tr>
<td>Staff proposals and questions released</td>
<td>December 18, 2020</td>
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<tr>
<td>Scoping ruling</td>
<td>Week of December 21, 2020</td>
</tr>
<tr>
<td>Assigned Commissioner’s ruling in response to the comments to the</td>
<td>Late December 2020</td>
</tr>
<tr>
<td>December 11, 2020 e-mail ruling on capacity issues</td>
<td></td>
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<tr>
<td>Opening testimony</td>
<td>January 11, 2021</td>
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<tr>
<td>Reply testimony</td>
<td>January 18, 2021</td>
</tr>
<tr>
<td>Motion for evidentiary hearing filed and served no later than</td>
<td>January 19, 2021</td>
</tr>
<tr>
<td>Evidentiary Hearing (if needed)</td>
<td>January 21 and 22, 2021</td>
</tr>
<tr>
<td>Opening legal and policy briefs</td>
<td>February 05, 2021</td>
</tr>
<tr>
<td>Reply legal and policy briefs</td>
<td>February 12, 2021</td>
</tr>
<tr>
<td>Proposed Decision</td>
<td>Early to mid-March 2021</td>
</tr>
<tr>
<td>Final Decision</td>
<td>March to April 2021</td>
</tr>
</tbody>
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5. **Category of Proceeding and *Ex Parte* Restrictions**

The Commission preliminarily determined that this is a quasi-legislative proceeding.\(^1\) After considering the opening and reply comments to the OIR and

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\(^1\) OIR at 15.
discussion at the PHC, the category is hereby changed to ratesetting. Accordingly, *ex parte* communications are restricted pursuant to Article 8 of the Rules.

6. Public Outreach

Pursuant to Pub. Util. Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission’s monthly newsletter that is served on communities and business that subscribe to it and posted on the Commission’s website.

In addition, the Commission served the Order Instituting Rulemaking/Investigation on the official service lists for the following proceedings:

<table>
<thead>
<tr>
<th>Proceeding Topic</th>
<th>Proceeding Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Interruptible Program</td>
<td>A.05-06-006 et al.</td>
</tr>
<tr>
<td>Demand Response</td>
<td>R.13-09-011 and A.17-01-012 et al.</td>
</tr>
<tr>
<td>Evaluation of Integrated Distributed Energy Resource Programs</td>
<td>R.14-10-003</td>
</tr>
<tr>
<td>Energy Efficiency</td>
<td>R.20-08-022</td>
</tr>
<tr>
<td>Energy Storage</td>
<td>A.20-03-002 et al.</td>
</tr>
<tr>
<td>Integrated Resource Planning and Related Procurement Processes</td>
<td>R.20-05-003</td>
</tr>
<tr>
<td>Interconnection of Distributed Energy Resources and Improvements to Rule 21</td>
<td>R.17-07-007</td>
</tr>
</tbody>
</table>
In addition, this OIR was served on the following state and local agencies and other entities: the California Independent System Operator and the California Energy Commission.

7. **Intervenor Compensation**
   Pursuant to Pub. Util. Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by January 14, 2021, 30 days after the PHC.

8. **Response to Public Comments**
   Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

9. **Public Advisor**
   Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at [http://consumers.cpuc.ca.gov/pao/](http://consumers.cpuc.ca.gov/pao/) or contact the Commission’s Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.
10. **Filing, Service, and Service List**

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents. When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

11. **Service of Documents on Commissioners and Their Personal Advisors**

Rule 1.10 requires only electronic service on any person on the official service list, other than the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide
electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

12. Assignment of Proceeding

Marybel Batjer is the assigned Commissioner and Brian Stevens is the assigned ALJ and presiding officer for the proceeding.

IT IS RULED that:
1. The scope of this proceeding is described above.
2. The schedule of this proceeding is set forth above.
3. Evidentiary hearing is needed.
4. The presiding officer is Administrative Law Judge Brian Stevens.
5. The category of the proceeding is ratesetting.

This order is effective today.

Dated December 21, 2020, at San Francisco, California.

/s/ MARYBEL BATJER
Marybel Batjer
Assigned Commissioner